

**UNITED STATES OF AMERICA**  
**Before the**  
**OFFICE OF THRIFT SUPERVISION**

In the Matter of	)	
	)	Order No.: SE-09-060
	)	
<b>BAYSIDE SAVINGS BANK</b>	)	Effective Date: December 22, 2009
	)	
Port St. Joe, Florida	)	
OTS Docket No. 17957	)	
	)	

**ORDER TO CEASE AND DESIST**

**WHEREAS**, Bayside Savings Bank, Port St. Joe, Florida, OTS Docket No. 17957 (Association), by and through its Board of Directors (Board), has executed a Stipulation and Consent to Issuance of an Order to Cease and Desist (Stipulation); and

**WHEREAS**, the Association, by executing the Stipulation, has consented and agreed to the issuance of this Order to Cease and Desist (Order) by the Office of Thrift Supervision (OTS) pursuant to 12 U.S.C. § 1818(b); and

**WHEREAS**, pursuant to delegated authority, the OTS Regional Director for the Southeast Region (Regional Director) is authorized to issue Orders to Cease and Desist where a savings association has consented to the issuance of an order.

**NOW, THEREFORE, IT IS ORDERED that:**

**Cease and Desist.**

1. The Association and its directors, officers, employees, and agents shall cease and desist from any action (alone or with another or others) for or toward causing, bringing about,

participating in, counseling or the aiding and abetting of any unsafe or unsound practices, and noncompliance with regulatory guidance including, but not limited to, the following:

- (a) operating the Association with an inadequate level of capital protection for the volume, type, and quality of assets held by the Association;
- (b) operating without an adequate business plan;
- (c) operating the Association with inadequate earnings to fund growth, support dividend payments and augment capital;
- (d) operating the Association with an excessive level of adversely classified loans and assets;
- (e) operating with an inadequate allowance for loan and lease losses (ALLL) methodology;
- (f) operating with an inadequate level of ALLL for the volume, type, and quality of loans and leases held;
- (g) operating the Association with an excessive concentration of interest only and nonresidential real estate loans as described in the June 30, 2009 Report of Examination of the Association (2009 ROE);
- (h) operating the Association without adequate liquidity and funds management policies and practices in light of the Association's asset and liability mix;
- (i) operating the Association with a heavy reliance on short-term potentially volatile deposits as a source for funding longer-term investments; and
- (j) operating in contravention of supervisory policy statements and other regulatory guidance.

2. The Association and its directors, officers, employees, and agents shall also cease and desist from any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, or aiding and abetting violations of the following laws or regulations:

- (a) 12 C.F.R. § 560.160(a) (Asset Classification);
- (b) 12 C.F.R. § 560.160(b) (ALLL);
- (c) 12 C.F.R. Part 562 (Regulatory Reporting Standards); and
- (d) 12 C.F.R. Part 570 (Safety and Soundness Standards);
- (e) 12 C.F.R. §§ 571.90(c), (d)(1), and (e)(4) (Identity Theft); and
- (f) 12 C.F.R. § 571.91(c) (Validation Requirements).

**Capital.**

3. By March 31, 2010, the Association shall have and thereafter maintain a Tier 1 Leverage Capital Ratio equal to or greater than seven percent (7%) and a Total Risk-Based Capital Ratio equal to or greater than twelve percent (12%).

4. By January 29, 2010, the Association shall submit to the Regional Director for review and comment a written plan to achieve and maintain the Association's capital at the levels prescribed in Paragraph 3 (Capital Plan). At a minimum, the Capital Plan shall:

- (a) address the requirements and restrictions imposed by this Order;
- (b) address the comments and incorporate all recommended corrective actions contained in the 2009 ROE;
- (c) address the Association's level of classified assets, ALLL, earnings, asset concentrations, liquidity needs, and trends in the foregoing areas;
- (d) address current and projected trends in real estate market conditions;

- (e) detail the Association's capital preservation and enhancement strategies with specific narrative goals; and
  - (f) identify the specific sources of additional capital and the timeframes and methods by which additional capital will be raised, including specific target dates and capital levels.
5. Within thirty (30) days after receipt of comments from the Regional Director, if any, the Board will revise the Capital Plan to incorporate any recommended changes by the Regional Director and adopt the Capital Plan as revised. Thereafter, the Association shall implement and adhere to the Capital Plan. A copy of the Capital Plan and the Board meeting minutes reflecting the revisions to the Capital Plan and the Board's adoption thereof shall be provided to the Regional Director within ten (10) days after the Board meeting.
6. At each regular monthly Board, beginning with January 2010, the Board shall review the Association's compliance with the Capital Plan. At a minimum, the Board's review shall include:
- (a) a comparison of actual operating results to projected results;
  - (b) detailed explanations of any material deviations;<sup>1</sup> and
  - (c) a discussion of specific corrective actions or measures that have been or will be implemented to address each material deviation.

The Board's review shall be fully documented in the Board meeting minutes. A copy of the meeting minutes detailing the Board's review shall be provided to the Regional Director within ten (10) days after the Board meeting.

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<sup>1</sup> A deviation shall be considered material under this Paragraph of the Order when the Association: (a) engages in any activity, line of business, or operation that is inconsistent with the Capital Plan; (b) exceeds the level of any activity or growth contemplated in the Capital Plan by more than ten percent (10%); or (c) falls below or fails to meet the target amounts established in the Capital Plan by more than ten percent (10%).

7. Within fifteen (15) days after (a) the Association fails to meet the capital requirements prescribed in Paragraph 3; (b) the Association fails to comply with the Capital Plan prescribed in Paragraph 4; or (c) any request from the Regional Director, the Association shall submit a written Contingency Plan that is acceptable to the Regional Director.

8. The Contingency Plan shall detail the actions to be taken, with specific time frames, to achieve one of the following results by the later of the date of receipt of all required regulatory approvals or sixty (60) days after the implementation of the Contingency Plan: (a) merger with, or acquisition by another federally insured depository institution or holding company thereof; or (b) voluntary liquidation by filing an appropriate application with OTS in conformity with federal laws and regulations.

9. Upon receipt of notification from the Regional Director, the Association shall implement the Contingency Plan immediately. The Association shall provide the Regional Director with written status reports detailing the Association's progress in implementing the Contingency Plan on the first (1<sup>st</sup>) and fifteenth (15<sup>th</sup>) of each calendar month following implementation of the Contingency Plan.

**Growth.**

10. Effective immediately, the Association shall not increase its total assets during any quarter in excess of an amount equal to net interest credited on deposit liabilities during the previous quarter without the prior written non-objection of the Regional Director. The growth restrictions imposed by this Paragraph shall remain in effect until the Regional Director has notified the Association in writing that its Business Plan is acceptable.

**Business Plan.**

11. Within sixty (60) days, the Association shall submit a new business plan and budget for calendar year 2010 (Business Plan) that is acceptable to the Regional Director. Thereafter, the Association shall submit a new one (1) year Business Plan at least sixty (60) days prior to the end of each calendar year. At a minimum, the Business Plan shall include:

- (a) plans and strategies to restructure the Association's operations, improve the Association's earnings, reduce expenses, and achieve positive core income;
- (b) strategies for ensuring that the Association has the financial and personnel resources necessary to implement and adhere to the Business Plan;
- (c) quarterly pro forma financial projections (balance sheet, capital forecasts, and income statement) and rolling four quarter budget consistent with the discussion in the 2009 ROE; and
- (d) identification of all relevant assumptions made in formulating the Business Plan and retention of documentation supporting such assumptions.

12. Upon receipt of written notification from the Regional Director that the Business Plan is acceptable, the Association shall implement and adhere to the Business Plan.

13. Any material modifications<sup>2</sup> to the Business Plan must receive the prior written non-objection of the Regional Director. The Association shall submit proposed material modifications to the Regional Director at least forty-five (45) days prior to implementation.

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<sup>2</sup> A modification shall be considered material under this Section of the Order if the Association plans to: (a) engage in any activity that is inconsistent with the Business Plan; or (b) exceed the level of any activity contemplated in the Business Plan or fail to meet target amounts established in the Business Plan by more than ten percent (10%), unless the activity involves assets risk-weighted fifty percent (50%) or less, in which case a variance of more than twenty-five percent (25%) shall be deemed to be a material modification.

14. Within thirty (30) days after the close of each calendar quarter, beginning with the calendar quarter ending March 31, 2010, the Board shall review quarterly variance reports on the Association's compliance with the Business Plan (Variance Reports). The Variance Reports shall:

- (a) identify material variances in the Association's actual performance during the preceding quarter as compared to the projections set forth in the Business Plan;
- (b) contain an analysis and explanation of identified variances; and
- (c) discuss the specific measures taken or to be taken to address identified variances.

15. The Board's review of the Variance Reports, assessment of the Association's compliance with the Business Plan, and any corrective actions taken or to be taken by the Board shall be fully documented in the Board meeting minutes. A copy of the Variance Reports and the Board meeting minutes detailing the Board's review shall be provided to the Regional Director within ten (10) days after the Board meeting.

**Lending.**

16. Effective immediately, the Association may only originate or purchase, or commit to originate or purchase Qualifying Mortgage Loans as defined at 12 C.F.R. § 567.1 and Consumer Loans as defined at 12 C.F.R. § 560.3.

17. Effective immediately, the Association shall not modify, renew, or extend any existing loans unless all of the following conditions are met:

- (a) a principal reduction of at least five percent (5%) of the outstanding loan balance is obtained or no new funds are advanced;
- (b) the terms of the renewed loan require amortizing principal and interest payments on an amortizing schedule not to exceed a maximum of thirty (30) years with respect to

single family residences, 15 years amortizing payments with five (5) year balloon payments with respect to land or lot loans, and ten (10) years with respect to all other loans; and

(c) any existing interest reserves will not be replenished and new interest reserves will not be established.

**Land Loan Concentration.**

18. Within sixty (60) days, the Association shall develop a written plan, acceptable to the Regional Director, that establishes specific strategies, timeframes and targets to reduce the level of concentrations and the risks associated with the Association's concentrations of credit in land loans (Land Loan Reduction Plan).

19. Upon receipt of notification from the Regional Director that the Land Loan Reduction Plan is acceptable, the Association shall implement and adhere to the Land Loan Reduction Plan.

20. At each monthly Board meeting, beginning with the January 2010 meeting, the Association shall review its compliance with the Land Loan Reduction Plan and document any adopted corrective actions in the Board meeting minutes.

**Allowance for Loan and Lease Losses.**

21. Within sixty (60) days, the Association shall revise its policies, procedures, and methodology to ensure the timely establishment and maintenance of an adequate ALLL level in accordance with applicable laws, regulations, and regulatory guidance (ALLL Policy). At a minimum, the ALLL Policy shall:

(a) address the comments and incorporate all recommended corrective actions in the 2009 ROE;

(b) incorporate the results of all internal loan reviews and classifications;

- (c) address the historical loan loss rates of the Association for the preceding twelve (12) months covering an expanded segmentation of the Association's loan portfolio, which shall be updated quarterly with heavier weightings assigned to rates of the most recent quarters;
- (d) include an estimate of the potential loss exposure on each significant<sup>3</sup> classified credit;
- (e) address the level and impact of concentrations of credit, including geographic concentrations;
- (f) consider current and prospective market and economic conditions; and
- (g) conform to regulatory requirements and guidance.

A copy of the Board meeting minutes reflecting the Board's discussion and adoption of the ALLL Policy shall be provided to the Regional Director within ten (10) days after the Board meeting.

22. Within ninety (90) days, the Association shall retain a qualified and independent third party to: (a) assess the adequacy and effectiveness of the Association's ALLL methodology and its compliance with this Order and applicable regulatory guidance; and (b) validate the sufficiency of the ALLL level as of December 31, 2009.

23. Within thirty (30) days after the end of each calendar quarter, beginning with the quarter ending March 31, 2010, the Association shall analyze the adequacy of the ALLL consistent with the ALLL Policy (Quarterly ALLL Report). Any deficiency in the ALLL shall be remedied by

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<sup>3</sup> A credit shall be considered significant for the purposes of assessing, establishing, and maintaining an appropriate level of ALLL if it is/was Five Hundred Thousand Dollars (\$500,000.00) or greater at origination.

the Association in the quarter in which it is discovered and before the Association files its Thrift Financial Report (TFR) with the OTS.

**Problem Assets.**

24. Within sixty (60) days, the Association shall submit a detailed, written plan with specific strategies, targets and timeframes to reduce<sup>4</sup> the Association's level of criticized assets<sup>5</sup> (Problem Asset Plan). At a minimum, the Problem Asset Plan shall include the preparation of individual written specific workout plans for each criticized asset and delinquent loan or group of loans to any one borrower or loan relationship of Five Hundred Thousand Dollars (\$500,000) or greater (Asset Workout Plans).

25. Within thirty (30) days after the end of each calendar quarter, beginning with the quarter ending March 31, 2010, the Board shall review a quarterly written asset status report (Asset Report). The Asset Report shall include, at a minimum:

- (a) the current status of all Asset Workout Plans;
- (b) a detailed analysis of the calculation and adequacy of the Association's ALLL levels and comparison of ALLL levels to the total level of classified assets;
- (c) a comparison of classified assets to core and risk based capital;
- (d) a comparison of classified assets at the current quarter end with the preceding quarter;
- (e) a breakdown of classified assets by type (residential, acquisition and development, construction, land loans, etc.);
- (f) an assessment of the Association's compliance with the Problem Asset Plan; and

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<sup>4</sup> For purposes of this Paragraph, "reduce" means to collect, sell, charge off, or improve the quality of an asset sufficient to warrant its removal from adverse criticism or classification.

<sup>5</sup> The term "criticized assets" shall include all classified assets, assets designated special mention, all nonperforming assets and all delinquent loans.

- (g) a discussion of the actions taken during the preceding quarter to reduce the Association's level of criticized assets and delinquent loans.

A copy of the Quarterly Asset Report and the Board meeting minutes detailing the Board's review shall be provided to the Regional Director within ten (10) days after the Board meeting.

**Financial Reporting.**

26. Within thirty (30) days, the Association shall complete a SFAS 114 compliant analysis on all impaired loans using current appraisals that meet applicable regulatory appraisal guidelines and requirements or supportable alternative valuation methods. For all loans that become impaired on or after the Effective Date of this Order, the Association shall have ninety (90) days to obtain appraisals that meet applicable appraisal guidelines and requirements.

27. Effective immediately, the Association shall perform a fair value assessment at the earlier of (a) a loan becoming ninety (90) days past due or (b) classification of the loan. Any adjustments resulting from the fair value assessments required by this Paragraph shall be accurately reflected on the Association's TFR prior to filing of the TFR with the OTS.

**Internal Controls.**

28. Within sixty (60) days, the Association shall have and maintain a properly functioning and fully effective formal Audit Function, which includes the establishment of a formal Audit Committee. The Audit Function shall, at a minimum, address the comments and incorporate all recommended corrective actions in the 2009 ROE and include a written risk assessment, audit plan, and risk-focused audits of all significant areas of the Association's operations. The Audit Committee's meetings and discussions shall be fully documented and reviewed by the full Board within thirty (30) days after the end of each calendar quarter, beginning with the quarter ending March 31, 2010.

**Appraisals.**

29. Effective immediately, the Association shall obtain updated or new appraisals not less than every twelve (12) months on all real estate that is collateral for a classified loan or held by the Association as Real Estate Owned.

**Loans to Insiders.**

30. Within thirty (30) days, the Association shall revise its policies and procedures governing loans to and transactions with insiders<sup>6</sup> to address the comments and incorporate the recommended corrective actions in the 2009 ROE (Insider Policies). Thereafter, the Association shall comply with its Insider Policies and 12 C.F.R. Part 215.

**Transactions with Affiliates.**

31. Within forty-five (45) days, the Association shall submit to the Regional Director a list of all ongoing transactions with the Association's parent holding company and its affiliated sister bank (TWA List). The Association shall ensure that all transactions with affiliates including, but not limited to, those on the TWA List, comply with applicable law and regulation.

**Fair Lending Monitoring Program.**

32. Within ninety (90) days, and thereafter not less than annually, the Association shall conduct a fair lending assessment that complies with applicable nondiscrimination laws, regulations and regulatory guidance. At a minimum, the Association's policies and procedures for complying with applicable nondiscrimination laws and regulations (Fair Lending Monitoring Program) shall conform to the Interagency Fair Lending Examination Procedures.

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<sup>6</sup> The term "insiders" is defined at 12 C.F.R. § 215.2(h).

**Identity Theft Program.**

33. Within ninety (90) days, the Association shall develop and implement a written Identity Theft Prevention Program (Program) in compliance with the requirements of 12 C.F.R. §571.90(d).

34. Within ninety (90) days, the Association, in order to perform periodic identification of covered accounts, shall develop and implement written procedures that comply with the requirements of 12 CFR §571.91(c).

**Violations of Law.**

35. Within sixty (60) days, the Board shall ensure that all violations of law, rule, and/or regulation cited in the Association's 2009 ROE are corrected. Within ninety (90) days, the Board shall prepare, adopt, and thereafter ensure that the Association adheres to specific procedures to prevent future violations.

36. Within thirty (30) days of receipt of any subsequent report, which cites or discusses any violations of law, rule, or regulation, the Board shall prepare, adopt, and thereafter ensure the Association adheres to specific procedures to correct such violations and prevent future violations.

**Liquidity.**

37. Within sixty (60) days, the Association shall submit a revised liquidity and funds management policy for the Association that is acceptable to the Regional Director (Liquidity Policy). The Liquidity Policy shall, at a minimum:

- (a) address the comments and incorporate the recommended corrective actions discussed in the 2009 ROE;
- (b) conform to applicable regulatory guidance; and

(c) require the preparation of a written plan to ensure the maintenance of adequate short-term and long-term liquidity to withstand any anticipated or extraordinary demand against the Association's funding base (Liquidity Plan).

38. The Liquidity Plan shall, at a minimum:

(a) include a cash flow analysis that contains reasonable assumptions, identifies anticipated funding needs under varying economic and market conditions and scenarios, discusses the funding sources to meet identified funding needs, identifies those funding sources that are subject to formal arrangements, considers the level and maturity of any brokered deposits, and addresses any contingent liabilities; and

(b) identify alternative funding sources for meeting extraordinary demands or to provide liquidity in the event the sources identified in Subparagraph (a) above are insufficient. Such alternative funding sources must consider, at a minimum, the selling of assets, obtaining lines of credit from correspondent banks, recovering charged-off assets, and injecting additional equity capital.

39. Upon receipt of written notification from the Regional Director that the Liquidity Policy is acceptable, the Association shall implement and adhere to the Liquidity Policy. A copy of the Board meeting minutes reflecting the Board's discussion and adoption of the Liquidity Policy shall be provided to the Regional Director within ten (10) days after the Board meeting.

40. Following adoption of the Liquidity Policy by the Board, Management shall prepare and submit to the Board for review a written monthly assessment of the Association's current liquidity position (Liquidity Report). The Liquidity Report shall include an assessment of the Association's compliance with the Liquidity Policy and the Liquidity Plan. At a minimum, the Liquidity Report shall consider:

- (a) a maturity schedule of certificates of deposit, including large uninsured deposits;
- (b) the volatility of demand deposits including escrow deposits;
- (c) the amount and type of loan commitments and standby letters of credit;
- (d) an analysis of the continuing availability and volatility of present funding sources;
- (e) an analysis of the impact of decreased cash flow from the Association's loan portfolio resulting from delinquent and non-performing loans; and
- (f) an analysis of the impact of decreased cash flow from the sale of loans or loan participations.

Any corrective actions adopted by the Board shall be fully documented in the Board meeting minutes.

**Brokered Deposits.**

41. Effective immediately, the Association shall comply with the requirements of 12 C.F.R. § 337.6(b).

42. Within thirty (30) days, the Association shall develop an internal system to monitor the interest rates offered on all interest bearing accounts for compliance with 12 C.F.R. § 337.6(b).

**Severance and Indemnification Payments.**

43. Effective immediately, the Association shall not make any golden parachute payment<sup>7</sup> or any prohibited indemnification payment<sup>8</sup> unless, with respect to each such payment, the Association has complied with the requirements of 12 C.F.R. Part 359 and, as to indemnification payments, 12 C.F.R. § 545.121.

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<sup>7</sup> The term "golden parachute payment" is defined at 12 C.F.R. § 359.1(f).

<sup>8</sup> The term "prohibited indemnification payment" is defined at 12 C.F.R. § 359.1(l).

**Directorate and Management Changes.**

44. Effective immediately, the Association shall comply with the prior notification requirements for changes in directors and Senior Executive Officers<sup>9</sup> set forth in 12 C.F.R. Part 563, Subpart H.

**Dividends.**

45. Effective immediately, the Association shall pay no dividends or make any other capital distributions, as that term is defined in 12 CFR § 563.141, without receiving the prior written approval of the Regional Director. The Association's written request for written approval should be submitted to the Regional Director at least forty-five (45) days prior to the anticipated date of the proposed dividend payment or distribution of capital.

**Employment Contracts and Compensation Arrangements.**

46. Effective immediately, the Association shall not enter into any new, or renew, extend, or revise any existing, contractual arrangement relating to compensation or benefits for any Senior Executive Officer or director of the Association, unless it first provides the OTS with not less than thirty (30) days prior written notice of the proposed transaction. The notice to the OTS shall include a copy of the proposed employment contract or compensation arrangement or a detailed, written description of the compensation arrangement to be offered to such officer or director, including all benefits and perquisites. The Board shall ensure that any contract, agreement, or arrangement submitted to the OTS fully complies with the requirements of 12 C.F.R. Part 359, 12 C.F.R. §§ 563.39 and 563.161(b), and 12 C.F.R. Part 570 – Appendix A.

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<sup>9</sup> The term "Senior Executive Officer" is defined at 12 C.F.R. § 563.555.

### **Third Party Contracts.**

47. Effective immediately, the Association shall not enter into any new arrangement or contract with a third party service provider that is significant to the overall operation or financial condition of the Association<sup>10</sup> or outside the Association's normal course of business unless, with respect to each such contract, the Association has (a) provided the OTS with a minimum of thirty (30) days prior written notice of such arrangement or contract, (b) determined that the arrangement or contract complies with the standards and guidelines set forth in Thrift Bulletin 82a (TB 82a); and (c) received written notice of non-objection from the Regional Director.

### **Board Compliance Committee.**

48. Within thirty (30) days, the Board shall appoint a committee to monitor and coordinate the Association's compliance with the provisions of this Order and the completion of all corrective actions required in the 2009 ROE (Regulatory Compliance Committee). The Regulatory Compliance Committee shall have three (3) or more directors, the majority of whom shall be independent<sup>11</sup> directors.

49. Within thirty (30) days after the end of each calendar quarter, beginning with the quarter ending March 31, 2010, the Regulatory Compliance Committee shall submit a written

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<sup>10</sup> A contract will be considered significant to the overall operation or financial condition of the Association where the annual contract amount equals or exceeds two (2) percent of the Association's total capital.

<sup>11</sup> For purposes of this Order, an individual who is "independent with respect to the Association" shall be any individual who:

- a. is not employed in any capacity by the Association, its subsidiaries, or its affiliates, other than as a director;
- b. does not own or control more than ten percent (10%) of the outstanding shares of the Association or its affiliates;
- c. is not related by blood or marriage to any officer or director of the Association or its affiliates, or to any shareholder owning more than ten percent (10%) of the outstanding shares of the Association or its affiliates, and who does not otherwise share a common financial interest with any such officer, director or shareholder; and
- d. is not indebted, directly or indirectly, to the Association or any of its affiliates, including the indebtedness of any entity in which the individual has a substantial financial interest, in an amount exceeding ten percent (10%) of the Association's total Tier 1 capital and allowance for loan and lease losses.

compliance progress report to the Board (Compliance Report). The Compliance Report shall, at a minimum:

- (a) separately list each corrective action required by this Order, including the paragraph number for each corrective action in the Order, and the Matters Requiring Board Attention section of the 2009 ROE;
- (b) identify the required or anticipated completion date for each corrective action; and
- (c) discuss the current status of each corrective action, including the action(s) taken or to be taken to comply with each corrective action.

50. The Board shall review the Compliance Report and all reports required to prepared by this Order. Following its review, the Board shall adopt a resolution: (a) certifying that each director has reviewed the Compliance Report and all required reports and (b) documenting any corrective actions adopted by the Board. A copy of the Compliance Report and the Board resolution shall be provided to the Regional Director within ten (10) days after the Board meeting. Nothing contained herein shall diminish the responsibility of the entire Board to ensure the Association's compliance with the provisions of this Order.

**Effective Date, Incorporation of Stipulation.**

51. This Order is effective on the Effective Date as shown on the first page. The Stipulation is made a part hereof and is incorporated herein by this reference.

**Duration.**

52. This Order shall remain in effect until terminated, modified, or suspended by written notice of such action by the OTS, acting by and through its authorized representatives.

### **Time Calculations.**

53. Calculation of time limitations for compliance with the terms of this Order run from the Effective Date and shall be based on calendar days, unless otherwise noted.

54. The Regional Director, or an OTS authorized representative, may extend any of the deadlines set forth in the provisions of this Order upon written request by the Association that includes reasons in support for any such extension. Any OTS extension shall be made in writing.

### **Submissions and Notices.**

55. All submissions, including any reports, to the OTS that are required by or contemplated by this Order shall be submitted within the specified timeframes.

56. Except as otherwise provided herein, all submissions, requests, communications, consents or other documents relating to this Order shall be in writing and sent by first class U.S. mail (or by reputable overnight carrier, electronic facsimile transmission or hand delivery by messenger) addressed as follows:

- (a) To the OTS:  
Regional Director  
Office of Thrift Supervision  
1475 Peachtree St., N.E.  
Atlanta, Georgia 30309  
404.897.1861 (Fax)
- (b) To the Association:  
Board of Directors  
c/o Tommy R. Lake, President/CEO  
Bayside Savings Bank  
202 Marina Drive  
Port St. Joe, FL 32456  
850.229.7711 (Fax)  
[tlake@baysidesavingsbank.com](mailto:tlake@baysidesavingsbank.com)

**No Violations Authorized.**

57. Nothing in this Order or the Stipulation shall be construed as allowing the Association, its Board, officers, or employees to violate any law, rule, or regulation.

**IT IS SO ORDERED.**

**OFFICE OF THRIFT SUPERVISION**

By: \_\_\_\_\_/s/\_\_\_\_\_  
James G. Price  
Regional Director, Southeast Region

Date: See Effective Date on page 1

**UNITED STATES OF AMERICA**  
**Before the**  
**OFFICE OF THRIFT SUPERVISION**

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In the Matter of )  
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Order No.: SE-09-060

**BAYSIDE SAVINGS BANK** )  
)  
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Effective Date: December 22, 2009

Port St. Joe, Florida )  
)

OTS Docket No. 17957 )  
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**STIPULATION AND CONSENT TO ISSUANCE OF ORDER TO CEASE AND DESIST**

**WHEREAS**, the Office of Thrift Supervision (OTS), acting by and through its Regional Director for the Southeast Region (Regional Director), and based upon information derived from the exercise of its regulatory and supervisory responsibilities, has informed Bayside Savings Bank, Port St. Joe, Florida, OTS Docket No. 17957 (Association), that the OTS is of the opinion that grounds exist to initiate an administrative proceeding against the Association pursuant to 12 U.S.C. § 1818(b);

**WHEREAS**, the Regional Director, pursuant to delegated authority, is authorized to issue Orders to Cease and Desist where a savings association has consented to the issuance of an order; and

**WHEREAS**, the Association desires to cooperate with the OTS to avoid the time and expense of such administrative cease and desist proceeding by entering into this Stipulation and Consent to the Issuance of Order to Cease and Desist (Stipulation) and, without admitting or denying that such grounds exist, but only admitting the statements and conclusions in Paragraphs 1 and 2 below concerning Jurisdiction, hereby stipulates and agrees to the following terms:

### **Jurisdiction.**

1. The Association is a “savings association” within the meaning of 12 U.S.C. § 1813(b) and 12 U.S.C. § 1462(4). Accordingly, the Association is “an insured depository institution” as that term is defined in 12 U.S.C. § 1813(c).
2. Pursuant to 12 U.S.C. § 1813(q), the Director of the OTS is the “appropriate Federal banking agency” with jurisdiction to maintain an administrative enforcement proceeding against a savings association. Therefore, the Association is subject to the authority of the OTS to initiate and maintain an administrative cease and desist proceeding against it pursuant to 12 U.S.C. § 1818(b).

### **OTS Findings of Fact.**

3. Based on its June 30, 2009 Report of Examination (2009 ROE) of the Association, the OTS finds that the Association has engaged in unsafe or unsound practices and failed to comply with applicable regulatory guidance as follows:
  - (a) operating the Association with an inadequate level of capital protection for the volume, type, and quality of assets held by the Association;
  - (b) operating without an adequate business plan;
  - (c) operating the Association with inadequate earnings to fund growth, support dividend payments and augment capital;
  - (d) operating the Association with an excessive level of adversely classified loans and assets;
  - (e) operating with an inadequate allowance for loan and lease losses (ALLL) methodology;
  - (f) operating with an inadequate level of ALLL for the volume, type, and quality of

loans and leases held;

- (g) operating the Association with an excessive concentration of interest only and nonresidential real estate loans as described in the 2009 ROE;
- (h) operating the Association without adequate liquidity and funds management policies and practices in light of the Association's asset and liability mix;
- (i) operating the Association with a heavy reliance on short-term potentially volatile deposits as a source for funding longer-term investments; and
- (j) operating in contravention of supervisory policy statements and other regulatory guidance.

4. Based on the 2009 ROE, the OTS finds that the Association also violated the following laws or regulations:

- (a) 12 C.F.R. § 560.160(a) (Asset Classification);
- (b) 12 C.F.R. § 560.160(b) (ALLL);
- (c) 12 C.F.R. Part 562 (Regulatory Reporting Standards); and
- (d) 12 C.F.R. Part 570 (Safety and Soundness Standards);
- (e) 12 C.F.R. §§ 571.90(c), (d)(1), and (e)(4) (Identity Theft); and
- (f) 12 C.F.R. § 571.91(c) (Validation Requirements).

**Consent.**

5. The Association consents to the issuance by the OTS of the accompanying Order to Cease and Desist (Order). The Association further agrees to comply with the terms of the Order upon the Effective Date of the Order and stipulates that the Order complies with all requirements of law.

**Finality.**

6. The Order is issued by the OTS under 12 U.S.C. § 1818(b). Upon the Effective Date, the Order shall be a final order, effective, and fully enforceable by the OTS under the provisions of 12 U.S.C. § 1818(i).

**Waivers.**

7. The Association waives the following:

- (a) the right to be served with a written notice of the OTS's charges against it as provided by 12 U.S.C. § 1818(b) and 12 C.F.R. Part 509;
- (b) the right to an administrative hearing of the OTS's charges as provided by 12 U.S.C. § 1818(b) and 12 C.F.R. Part 509;
- (c) the right to seek judicial review of the Order, including, without limitation, any such right provided by 12 U.S.C. § 1818(h), or otherwise to challenge the validity of the Order; and
- (d) any and all claims against the OTS, including its employees and agents, and any other governmental entity for the award of fees, costs, or expenses related to this OTS enforcement matter and/or the Order, whether arising under common law, federal statutes, or otherwise.

**OTS Authority Not Affected.**

8. Nothing in this Stipulation or accompanying Order shall inhibit, estop, bar, or otherwise prevent the OTS from taking any other action affecting the Association if at any time the OTS deems it appropriate to do so to fulfill the responsibilities placed upon the OTS by law.

**Other Governmental Actions Not Affected.**

9. The Association acknowledges and agrees that its consent to the issuance of the Order is

solely for the purpose of resolving the matters addressed herein, consistent with Paragraph 8 above, and does not otherwise release, discharge, compromise, settle, dismiss, resolve, or in any way affect any actions, charges against, or liability of the Association that arise pursuant to this action or otherwise, and that may be or have been brought by any governmental entity other than the OTS.

**Miscellaneous.**

10. The laws of the United States of America shall govern the construction and validity of this Stipulation and of the Order.
11. If any provision of this Stipulation and/or the Order is ruled to be invalid, illegal, or unenforceable by the decision of any Court of competent jurisdiction, the validity, legality, and enforceability of the remaining provisions hereof shall not in any way be affected or impaired thereby, unless the Regional Director in his or her sole discretion determines otherwise.
12. All references to the OTS in this Stipulation and the Order shall also mean any of the OTS's predecessors, successors, and assigns.
13. The section and paragraph headings in this Stipulation and the Order are for convenience only and shall not affect the interpretation of this Stipulation or the Order.
14. The terms of this Stipulation and of the Order represent the final agreement of the parties with respect to the subject matters thereof, and constitute the sole agreement of the parties with respect to such subject matters.
15. The Stipulation and Order shall remain in effect until terminated, modified, or suspended in writing by the OTS, acting through its Regional Director or other authorized representative.

**Signature of Directors/Board Resolution.**

16. Each Director signing this Stipulation attests that he or she voted in favor of a Board Resolution authorizing the consent of the Association to the issuance of the Order and the execution of the Stipulation.

**WHEREFORE**, the Association, by its directors, executes this Stipulation.

Accepted by:

**BAYSIDE SAVINGS BANK**  
Port St. Joe, Florida

**OFFICE OF THRIFT SUPERVISION**

By: \_\_\_\_\_/s/  
Terry Dubose  
Chairman

By: \_\_\_\_\_/s/  
James G. Price  
Regional Director, Southeast Region

Date: See Effective Date on page 1

**DIRECTORS SIGNATURES**

\_\_\_\_\_/s/  
Charles A. Costin, Director

\_\_\_\_\_/s/  
Jasper L. Smith, Director

\_\_\_\_\_/s/  
Dewey A. Blaylock, Director

\_\_\_\_\_/s/  
David P. Warriner, Director

\_\_\_\_\_/s/  
William R. Buzzett, Director

\_\_\_\_\_/s/  
Stuart L. Shoaf, Director

\_\_\_\_\_/s/  
George W. Duren, Director